

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE

PRIMARY PRODUCTIONS LLC, on behalf  
of itself and all others similarly situated

*Plaintiff,*

v.

APPLE INC.

*Defendant.*

No. 2:21-cv-00137-JDL

**APPLE INC.'S OBJECTION TO  
PLAINTIFF'S CORPORATE DISCLOSURE STATEMENT**

Defendant Apple Inc. ("Apple") objects to the corporate disclosure statement of Plaintiff Primary Productions LLC ("Primary Productions"). Pursuant to this District's Local Rule 7.1, parties are required to identify "all persons, associations of persons, firms, partnerships, limited liability companies, joint ventures, corporations (including parent or affiliated corporations, clearly identified as such), or any similar entities, owning 10% or more of the named party." When Primary Productions filed its complaint, it did not submit any corporate disclosure statement. The Court issued an Order to Show Cause by July 1, 2021, as to why it did not submit a corporate disclosure statement. ECF No. 9. Primary Productions did not respond directly to the Order to Show Cause, but instead submitted a statement that did not comply with Local Rule 7.1. ECF No. 11.

The statement filed by Primary Productions, which appears to be based on a form template from the District of New Hampshire, attests that there are no "parent corporation[s]" or "publicly held corporation[s]" that own 10% or more of Primary Productions' stock. *Id.* at 1. But the statement is silent as to whether any persons, associations of persons, or entities belonging to any

of the other entity types identified in Local Rule 7.1, such as firms or partnerships, have a 10% or greater stake in Primary Productions.

The existence, or lack thereof, of any entities with a significant ownership stake in Primary Productions is material to this litigation. For instance, Apple has serious doubts whether Primary Productions is the “real party in interest” here, as required by Federal Rule of Civil Procedure 17(a). The fundamental theory of injury alleged in the Complaint is that Apple allegedly rejected Primary Productions’ app from the App Store. *See, e.g.*, Compl. ¶¶ 37–39. Yet the Complaint also alleges that Primary Productions was not the entity or person that submitted the app at issue in this case to Apple for review, *id.* ¶ 182, and provides no further details on the identity of that entity or person or the nature of its relationship with Primary Productions. Apple asked Plaintiff’s counsel for the name of this submitting entity on June 25, 2021, requesting a response by June 30, 2021, but as of the date of this filing Plaintiff has provided no answer. A complete corporate disclosure statement may help shed light on Primary Productions’ relationship to that entity and whether Primary Productions is the real party in interest. *Cf. Coronavirus Reporter v. Apple Inc.*, 2021 WL 1946428, at \*3 n.5 (D.N.H. May 14, 2021) (noting, on similar facts in a similar case brought by Plaintiff’s counsel, that “[t]here is . . . an open question as to whether plaintiff is the real party in interest with standing to bring this action”).

For these reasons, and in light of Primary Productions’ failure to respond to the Court’s Order to Show Cause, Apple respectfully requests that the Court direct Primary Productions to submit a complete corporate disclosure statement that states whether any persons, associations of persons, or entities belonging to any of the entity types listed in Rule 7.1 have a 10% or greater stake in Primary Productions.

Dated: July 2, 2021

Respectfully submitted,

Defendant, APPLE INC.

By and through its attorneys,

/s/ Peter J. Brann

Peter J. Brann  
Stacy O. Stitham  
BRANN & ISAACSON  
184 Main Street, 4th Floor  
Lewiston, ME 04243-3070  
Tel.: (207) 786-3566  
PBrann@brannlaw.com  
SStitham@brannlaw.com

/s/ Mark Perry

Mark Perry, *pro hac vice pending*  
Rachel S. Brass, *pro hac vice pending*  
Zachary B. Copeland, *pro hac vice pending*  
GIBSON, DUNN & CRUTCHER LLP  
1050 Connecticut Avenue, N.W.  
Washington, DC 20036-5306  
Tel.: (202) 955-8500  
MPerry@gibsondunn.com  
RBrass@gibsondunn.com  
ZCopeland@gibsondunn.com